

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**MATTHEW L. BODE,  
APPELLANT**

**vs.**

**STATE OF MISSOURI,  
RESPONDENT**

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DOCKET NUMBER WD70311

DATE: APRIL 27, 2010

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Appeal from:

Platte County Circuit Court  
The Honorable Owens L. Hull, Jr., Judge

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Appellate Judges:

Division Two: Joseph M. Ellis, P.J., Victor C. Howard and James E. Welsh, JJ.

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Attorneys:

S. Kate Webber, for Appellant

Daniel N. McPherson, for Respondent

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**MISSOURI APPELLATE COURT OPINION SUMMARY**

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**MATTHEW L. BODE, APPELLANT**

**v.**

**STATE OF MISSOURI, RESPONDENT**

WD70311

Platte County, Missouri

Before Division Two Judges: Joseph M. Ellis, P.J., Victor C. Howard and James E. Welsh, JJ.

Mathew Bode appeals from the denial of his Rule 29.15 motion for post-conviction relief by the Circuit Court of Platte County.

**AFFIRMED IN PART; REVERSED IN PART; REMANDED.**

**Division Two holds:**

- (1) The motion court was entitled to reject as uncredible Appellant's testimony that counsel failed to fully inform him of his right to testify and that counsel rested his case before Appellant had a chance to testify and to accept counsel's contrary testimony. Moreover, Appellant failed to demonstrate any prejudice as he did not describe, in any fashion, what his testimony would have been had he testified at trial.
- (2) The motion court did not clearly err in finding that counsel was not ineffective for failing to obtain a mental evaluation of Appellant where counsel testified that Appellant did not appear to be incompetent and had been able to discuss the case with him; medical notes from Appellant's jail stay reflected that, though depressed and anxious about his trial, Appellant was alert and oriented at all times and cognitively intact; and the court had been able to view Appellant at trial. Moreover, Appellant again failed to demonstrate prejudice, in that he failed to offer any credible evidence establishing that he would, indeed, have been found incompetent to stand trial.
- (3) The motion court was not required to issue findings of fact and conclusions of law related to Appellant's pro se claims for which Appellant failed to present evidence at the hearing to provide factual support for his claim as such claims are deemed to have been abandoned.

- (4) Where Appellant presented evidence to support his pro se claim that counsel was ineffective for failing to pursue a motion to suppress the store clerk's identification of him, the motion court erred in failing to enter findings and conclusions related to that claim.

**Opinion by Joseph M. Ellis, Judge**

Date: April 27, 2010

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